

UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS

MADELINE B. COHEN,
Plaintiff,

v.

PETER A. ALBANESE, D.M.D. AND
CONNECTICUT VALLEY ORAL SURGERY
ASSOCIATES, P.C.
Defendant.

COMPLAINT FOR NEGLIGENCE

1. The Plaintiff, The Plaintiff, Madeline B. Cohen, is a resident of 12032 Waterside View Drive, Apt#23, Reston, Virginia.
2. The Defendant, Peter A. Albanese, D.M.D., has his principal place of business at 285 High Street, Greenfield, Massachusetts.
3. The Defendant, Connecticut Valley Oral Surgery Associates, P.C., is a for profit Massachusetts professional cooperation, with a principal place of business at 285 High Street, Greenfield, Massachusetts.
4. The jurisdiction of this Court is based upon a matter in controversy exceeding the sum of \$75,000.00, exclusive of interest and costs, and is between citizens of different states. (28 U.S.C. 1332).
5. On or about January 16, 2012, the Plaintiff, Madeline B. Cohen was a patient of Peter A. Albanese, D.M.D., a servant, agent, and/or employee of Connecticut Valley Oral Surgery Associates, P.C. located with a usual place of business at 285 High Street, Greenfield, Massachusetts.
6. The Defendant, Connecticut Valley Oral Surgery Associates, P.C., by and through its servant, agent, and/or employee, Peter A. Albanese, D.M.D., for whom the Defendant, Connecticut Valley Oral Surgery Associates, P.C. was legally responsible, owed the Plaintiff, Madeline B. Cohen, the duty of using care and skill.
7. In violation of the duty of the care and skill owed to the Plaintiff, Madeline B. Cohen, the Defendant, Connecticut Valley Oral Surgery Associates, P.C., by and through its servant, agent and/or employee, Peter A. Albanese, D.M.D., so carelessly and negligently cared for and treated the said Plaintiff, that the Plaintiff was caused to sustain serious bodily injuries. Specifically, the Defendant, Connecticut Valley Oral Surgery Associates, P.C., through its servant, agent, and/or employee, Peter A. Albanese, D.M.D. carelessly and negligently removed the

wrong tooth (#31) from the Plaintiff, Madeline B. Cohen, causing severe and permanent damage to the right inferior alveolar nerve of the Plaintiff, Madeline B. Cohen, causing her permanent numbness and paresthesia in the distribution of the right inferior alveolar nerve.

8. It is below the Standard of Care in Dentistry to remove the wrong tooth.
9. The removal of the wrong tooth is surgery of the wrong body part. That is a "never event" (as listed by the Agency for Healthcare Research and Quality under the U.S. Department of Health and Human Services).
10. As a result of the negligence of the Defendants, as described in Paragraph 7, the Plaintiff was caused to sustain serious bodily injury. These injuries include, but are not limited to, permanent numbness and paresthesia to the right distribution of the inferior alveolar nerve. As a result of these injuries, the Plaintiff has incurred and will incur substantial medical expense; pain and suffering; loss of earning capacity; and emotional distress.
11. On or about January 16, 2012, when the Defendant, Peter A. Albanese, D.M.D., a servant, agent, and/or employee of the Defendant, Connecticut Valley Oral Surgery Associates, P.C., extracted tooth #31, he committed a civil (medical) battery on the Plaintiff, which was an offensive contact that offended a reasonable sense of personal dignity, insofar as the Plaintiff did not consent to the removal of tooth #31.
12. As a direct and a proximate result of Defendant, Peter A. Albanese D.M.D.'s battery, the Plaintiff suffered a permanent injury to the inferior alveolar nerve causing permanent numbness and paresthesia to the distribution of the inferior alveolar nerve, including, but not limited to, significant medical expense, pain and suffering, and emotional distress.

CAUSES OF ACTION

(Each Cause of Action Specifically
Incorporates by Reference all of Those
Paragraphs Previously Set Forth).

FIRST CAUSE OF ACTION

10. This is an action by the Plaintiff, Madeline B. Cohen, against the Defendant, Peter A. Albanese, D.M.D. for negligence resulting in personal injuries.

SECOND CAUSE OF ACTION

11. This is an action by the Plaintiff, Madeline B. Cohen, against the Defendant, Connecticut Valley Oral Surgery Associates, P.C., for negligence resulting in personal injuries.

THIRD CAUSE OF ACTION

12. This is an action by the Plaintiff, Madeline B. Cohen, against the Defendant, Peter

A. Albanese, D.M.D. for civil (medical) battery, resulting in personal injuries.

FOURTH CAUSE OF ACTION

13. This is an action by the Plaintiff, Madeline B. Cohen, against the Defendant, Connecticut Valley Oral Surgery Associates, P.C., for civil (medical) battery, resulting in personal injuries.

DEMANDS FOR RELIEF

- A. The Plaintiff, Madeline B. Cohen, demands Judgment, in the amount of \$562,998.50, against the Defendant, Peter A. Albanese, D.M.D., with interest and costs as to the First and Third Cause of Action.
- B. The Plaintiff, Madeline B. Cohen, demands Judgment, in the amount of \$562,998.50, against the Defendant, Connecticut Valley Oral Surgery Associates, P.C., with interest and costs as to the Second and Fourth Cause of Action.

WHEREFORE, the plaintiff herein demands a trial by jury and judgment and damages of the defendants herein in the amount of \$562,998.50, plus interest and costs.

By her Attorney,



Frank J. Riccio, Esq.
25 Braintree Hill Office Park, Suite 208
Braintree, MA 02184
(781) 380-4373
BBO#: 546411
friccio@socialaw.com

Dated: January 8, 2015